

tree that any individual defendant had created or modified. I collected each of those files. I did not redact or otherwise remove anything from those files.

4. I noted that one of the individual defendants, Jonathan Yamron, had not kept the source code for his language model building tools under our Perforce version control system. Dr. Yamron kept those files separately, but had captured those files as they existed as of June, 2002. Dr. Yamron's source code files were placed in Dr. Yamron's folder "src_fullyear_jyamron" on the laptops Voice Signal delivered to ScanSoft and Dr. Ney. All other work performed by Dr. Yamron had been kept in the Perforce system and was also delivered to ScanSoft and Dr. Ney.

5. I loaded the source code of the individual defendants onto the laptop as part of the directory structure in which it is found on the Perforce system at Voice Signal. It is not unusual to see "empty" folders in a source code directory structure. I included the entire directory structure (1) to assist in Dr. Ney's and ScanSoft's examination of the source code structure; and (2) to avoid the collision of files that have the same name. For example, there are many files with the name "makefile" or "Makefile". Providing the source code in the full directory structure is akin to providing a full table of contents for an anthology. In addition, many of the folders and subfolders that are part of this directory contained source code that was neither created nor modified by any of the individual defendants.

6. The source code that is found in the folder labeled "src_fullyear_mgrabherr" includes source code of the ELVIS demo instruction system which was used to demonstrate the ELVIS system to potential customers in the first year. Contrary to the statements in ScanSoft's motion, ELVIS was not a product in 2001 or 2002 and was not made available to customers. It was a demonstration system for large vocabulary speech recognition.

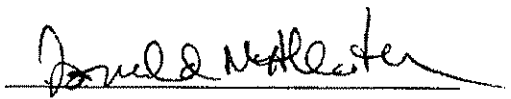
7. The Laptop includes all of the source code created or modified by individual defendant, Robert Roth. Dr. Roth's work included work rewriting the decoder for ELVIS. That work is included on the laptop.

8. I understand that ScanSoft has complained that certain "include" files are not on the laptop and cite as an example the included file titled "stdlib.h." An include file is a file where data or instructions commonly used by multiple programs are stored. The include file entitled "stdlib.h" is part of the ANSI C standard X3.159-1989, and defines several functions used by C compilers. It is installed on every computer that is used for software development by either the hardware provider (such as Dell) or the provider of the C compiler used to write the code. In this case, the file is provided by the author of the C compiler (the Free Software Foundation), and, in systems like the laptops, is ordinarily stored as "/usr/include/stdlib.h". That file is not written or modified by any of the individual defendants or anyone at VST.

9. The other include files cited by ScanSoft as "missing" were not modified or created by any of the individual defendants.

10. In paragraph 7 of his Declaration, Mr. Lawrence states that "when I read the headers for each file, I found that all of the files were created or 'owned' by one of the individual defendants." This statement is incorrect. As an initial matter, not all files have owner or authors in the Voice Signal header information. The header of each file lists both the "owner" of the file (the person who created the file) and the person who last modified the file. There are multiple files that were produced for which the owner and author of the file are different from the particular defendant whose code is being provided in that directory tree. In the folder containing source code for Dr. Roth, 54% of the files produced have an "owner" who is *not* one of the four individual defendants. For Dr. Grabherr, 48% of the files produced have an owner different than the individual defendants. For Dr. Yamron, 47% of the files produced have an owner different than the original defendants.

Signed under the pains and penalties of perjury this 28th day of February, 2006


Don McAllaster